

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs June 12, 2008

RALPH E. WILLIAMS, JR.

v.

TENNESSEE DEPARTMENT OF HUMAN SERVICES

Appeal from the Chancery Court for Davidson County

No. 06-3150-II Carol L. McCoy, Chancellor

No. M2007-01174-COA-R3-CV - Filed December 16, 2008

This child support enforcement case involves the issue of subject matter jurisdiction to review an administrative decision. The petitioner father was under orders to pay child support in Hamilton County. After falling in arrears on his obligations, the Tennessee Department of Human Services issued notices of license revocation. The father requested an administrative hearing, but failed to appear at the hearing. Consequently, the Department issued administrative orders finding that father had abandoned his appeal. The father filed a petition for reconsideration, which was denied. The father filed a petition for judicial review with the Chancery Court in Davidson County. The Davidson County Chancery Court found that it lacked subject matter jurisdiction over the petition because it did not have jurisdiction over the original orders of support. It dismissed the father's petition and transferred it to Hamilton County. The father now appeals, raising a multitude of issues going to the merits of his case. We affirm the Davidson County Chancery Court's finding that it lacked subject matter jurisdiction over the father's petition.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court is Affirmed

HOLLY M. KIRBY, J., delivered the opinion of the Court, in which ALAN E. HIGHERS, P.J., W.S., and DAVID R. FARMER, J., joined.

Appellant, Ralph E. Williams, Jr., Chattanooga, Tennessee, *pro se*.

Robert E. Cooper, Jr., Attorney General & Reporter, and Juan G. Villaseñor, Assistant Attorney General, for the Appellee, Tennessee Department of Human Services.

OPINION

This appeal arises from an order entered by the Davidson County Chancery Court dismissing the petition of Petitioner/Appellant Ralph E. Williams, Jr. ("Williams"), for lack of subject matter jurisdiction and transferring it to Hamilton County, Tennessee. Williams now challenges the dismissal.

Between 1999 and 2006, multiple orders were entered by the Hamilton County Juvenile and Chancery Courts, requiring Williams to pay child support. All of the cases were proceeding as Title IV-D cases.

Williams fell into arrears on the court-ordered child support payments. Consequently, on September 18, 2006, the Respondent/Appellee Tennessee Department of Human Services (“DHS”) issued to Williams notices of state license revocation.¹ The notices informed Williams that certain state-issued licenses he held could be revoked by the issuing agencies because his child support obligation was \$500 or more in arrears, and had been so for ninety or more days. The notices advised Williams to contact his local child support office within twenty days of receiving the notices.

After he received the notices, Williams requested an administrative hearing pursuant to Tennessee Code Annotated § 36-5-703.² DHS granted his request and notified Williams that he could present his appeal to a DHS hearing officer at 9:00 a.m. on December 7, 2006, at the Child Support Services office for Hamilton County.

Williams failed to appear at the scheduled hearing. DHS then issued an initial order, stating that the hearing did not take place and apprising Williams that his appeal was considered abandoned. The order informed Williams that he could file a petition for reconsideration.

On December 14, 2006, Williams filed a petition for reconsideration with DHS. In his petition, he alleged violations of the First, Fifth, and Fourteenth Amendments to the federal Constitution, but gave no reason for his failure to appear at the December 7, 2006 hearing in Hamilton County. On January 7, 2007, DHS denied Williams’ petition for reconsideration, finding that he failed to provide any evidence of the reason that he did not appear at the scheduled hearing. DHS issued its final order adopting the decision stated in the initial order, and Williams’ appeal from the administrative order of license revocation was dismissed.

Williams then filed a petition with the Chancery Court of Davidson County, seeking judicial review of the dismissal of his appeal from the DHS order. In response, DHS filed a motion to dismiss the petition under Rule 12.02(1) of the Tennessee Rules of Civil Procedure. It argued that Williams’ petition in the Davidson County court should be dismissed for lack of subject matter

¹Revocation of state-issued licenses is a mechanism available to DHS to enforce child support orders in Title IV-D cases. T.C.A. § 36-5-702(a)(1), (2) (2005); *see also id.* § 36-5-701(7) (2005).

²Section 36-5-703 provides in part:

(a) An obligor may request an administrative hearing upon receiving the notice described in § 36-5-702 to contest the department’s intention to issue a finding of noncompliance to a licensing authority. The request for hearing must be made in writing and must be received by the department within twenty (20) days of the date the notice is served upon the obligor as shown by the return receipt or by the return on personal service.

Id. § 36-5-703(a) (2005).

jurisdiction and transferred to the appropriate court. Citing Tennessee Code Annotated § 36-5-1003(a),³ DHS asserted that the Hamilton County Juvenile and Chancery Courts had exclusive jurisdiction over the petition because those courts had jurisdiction over the original child support orders. Accordingly, DHS argued that the Davidson County Chancery Court should dismiss Williams' petition and transfer it to Hamilton County.

On March 30, 2007, the Davidson County Chancery Court granted the DHS motion to dismiss and transfer. Citing Tennessee Code Annotated §§ 36-5-703(b) and -1003(a), the court determined that it lacked jurisdiction to hear the petition. Accordingly, it dismissed Williams' petition and transferred it to the Hamilton County Juvenile and Chancery Courts.

Williams now appeals from the dismissal and transfer of his petition. He raises several issues going to the merits of his case.⁴ However, before the substantive issues raised by Williams on appeal can be addressed, we must determine whether the Davidson County Chancery Court erred in granting the DHS motion to dismiss his petition for lack of subject matter jurisdiction.

A motion to dismiss for lack of subject matter jurisdiction requires analysis of "a court's lawful authority to adjudicate a controversy brought before it." *Northland Ins. Co. v. State*, 33 S.W.3d 727, 729 (Tenn. 2000) (citing *Meighan v. U.S. Sprint Commc'ns Co.*, 924 S.W.2d 632, 639 (Tenn. 1996)); *Standard Sur. & Cas. Co. v. Sloan*, 173 S.W.2d 436, 440 (Tenn. 1943)). "[C]ourts cannot exercise jurisdictional powers that have not been conferred directly on them expressly or by necessary implication." *Tenn. Envtl. Council v. Water Quality Control Bd.*, 250 S.W.3d 44, 55

³Section 36-5-1003(a) provides, "Notwithstanding any other law to the contrary, the judicial review of the administrative hearing decisions of the department of human services pursuant to this part *shall be conducted by the court having jurisdiction of the support order* as otherwise provided by § 4-5-322." *Id.* § 36-5-1003(a) (2005) (emphasis added).

⁴Williams' appellate brief states that he seeks to raise the following issues on appeal:

Whether the appellate court's threat of dismissal against a indigent or pro se litigant for allegedly failing to file a brief is standing case law?

Whether or not an appellate court judge can block the reporting of criminal activities, while that person is suffering from state subordinates' intentional deprivation of rights?

May an appellate court judge dismiss an action that states multiple federal causes of actions for which state and federal remedies are available?

Can appellate court judges dismiss a cause of action, while refusing to make findings of submitted facts, and conclusions of law?

Can a judge dismiss a cause of action against a pro se litigant on mere technical grounds or a single act of alleged misconduct?

Whether or not trial and appeals courts are required to follow the precedents set by the Tennessee Supreme Court?

(Tenn. Ct. App. 2007). Thus, “[r]egardless of whether a party raised the issue of subject matter jurisdiction, the appellate court shall consider whether the trial court had jurisdiction over the subject matter.” *Id.*

In determining subject matter jurisdiction, we must ascertain whether such jurisdiction has been conferred on the lower court by constitutional or legislative act. *Northland Ins. Co.*, 33 S.W.3d at 729 (citing *Kane v. Kane*, 547 S.W.2d 559, 560 (Tenn. 1977); *Computer Shoppe, Inc. v. State*, 780 S.W.2d 729, 734 (Tenn. Ct. App. 1989)). As this determination is a question of law, our standard of review is *de novo*, with no presumption that the lower court’s decision was correct. *Id.* (citing *Nelson v. Wal-Mart Stores, Inc.*, 8 S.W.3d 625, 628 (Tenn. 1999)).

Tennessee Code Annotated § 36-5-705 gives DHS the authority to certify to Tennessee licensing authorities that an obligor parent is not in compliance with an order of support. T.C.A. § 36-5-705; *see also id.* § 36-5-701(7) (defining non-compliance). A certification from DHS under that section “shall be a basis for the denial, suspension or revocation of a license, or for refusal to issue or reinstate a license by a licensing authority.”⁵ *Id.* § 36-5-706(a). Before issuing the certification of non-compliance, however, DHS may notify the obligor parent that it intends to submit his or her name to the licensing authorities, and the licensing authorities can then deny, suspend, or revoke the parent’s licenses. *Id.* § 36-5-702(a).

If the obligor parent requests the hearing provided for in section 36-5-703(a), Tennessee statutes require that DHS:

shall conduct the hearing in accordance with the provisions of title 4, chapter 5, part 3 of the Uniform Administrative Procedures Act, except that, notwithstanding any law to the contrary, the appeal of the department’s administrative order based upon the hearing pursuant to this part shall be made by the obligor in accordance with the jurisdiction and judicial review provisions of § 36-5-1003

Id. § 36-5-703(b). Thus, if DHS enters an order enforcing a child support obligation by license denial and revocation, and the obligor parent seeks judicial review of the order, he or she must do so in accordance with Tennessee Code Annotation § 36-5-1003. Section 36-5-1003, in turn, directs that judicial review of DHS’ administrative decisions “*shall* be conducted by the court having jurisdiction of the support order” *Id.* § 36-5-1003(a).

The appellate record in this case shows clearly that the Hamilton County Juvenile and Chancery Courts had jurisdiction of the original support orders. Thus, under Tennessee Code Annotated §§ 36-5-703(b) and -1003(a), these courts had exclusive jurisdiction of an appeal from an order entered upon an administrative hearing requested under section 36-5-703(b). The Davidson County Chancery Court correctly determined that it lacked subject matter jurisdiction, and that

⁵Licenses subject to denial, suspension, and revocation include professional and recreational licenses and permits. T.C.A. § 36-5-701(4).

Williams' petition should be dismissed and transferred to the appropriate courts in Hamilton County. *Id.* § 4-5-322(b)(2) (2005). This holding pretermits all other issues raised on appeal.

The decision of the trial court is affirmed. Costs on appeal are to be taxed to the Appellant, Ralph E. Williams, Jr., and his surety, for which execution may issue if necessary.

HOLLY M. KIRBY, JUDGE